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File #: 2021-501**Type:** Consent Calendar Item**Body:** [City Council](#)**On agenda:** 1/19/2021**Title:** Recommendation to Expand the City's Sick Leave Benefit Authorizing Use of Parental Leave and Increasing the Sick Leave Cap for Protected Leave to Care for a Family Member to 480 Hours. (Human Resources 2510)

Text

Recommendation to Expand the City's Sick Leave Benefit Authorizing Use of Parental Leave and Increasing the Sick Leave Cap for Protected Leave to Care for a Family Member to 480 Hours. (Human Resources 2510)

To: Honorable Mayor and Members of the City Council

EXECUTIVE SUMMARY

The City Council previously directed staff to enact a policy to provide all City of Alameda (City) employees the option to use any paid leave, such as sick, vacation, or other paid time off, to supplement pay while taking protected leave to care for a family member. Under the Family and Medical Leave Act (FMLA), the California Family Rights Act (CFRA), qualified employees are eligible for up to 12 weeks of parental leave. Parental leave, includes time taken off work to bond with a new child.

The City currently allows employees to use all accrued leaves when out on an approved medical leave of absence. Employees on parental leave can use all accrued leaves with the exception of sick leave.

Staff now recommends, with approval from labor groups, allowing qualified employees to use up to ten weeks of accrued sick leave when on parental leave. Employees would be required to use other types of accrued leaves during weeks eleven and twelve.

Staff also recommends increasing the limitations on the amount of sick leave an employee can use to attend to the illness of a child, parent, spouse or domestic partner when an employee is on an approved protected leave (FMLA related to a family illness). Currently employees are only eligible to use half their annual sick leave accrual in a calendar year to care for an ill family member (48 hours for a 40 hour a week employee). Staff recommends increasing this amount to up to 12 weeks based on the employee's schedule. For example, a 36-hour a week employee would be eligible to use 432 hours of sick leave. This would apply to employees on protected leave only. The current limitation would remain for absences that do not qualify for protected leave, such as single day absences.

BACKGROUND

The City complies with all laws and regulations regarding the use of paid leave when an employees is off on an approved and protected leave of absence. Protected leaves include the Family Medical Leave of Absence (FMLA), California Family Rights Act (CFRA), parental leave and pregnancy leave. Depending on the type of leave employees may use accrued vacation, sick leave or other accrued time to cover their time away from work.

Currently, there is no legal obligation to allow an employee to use accrued sick leave while off on parental leave. Additionally, the City's memorandums of understanding (MOU) with all City labor groups and Chapter 25.2.2 of the City Municipal Code specifically state that sick leave shall be allowed only in case of actual sickness, disability, or medical appointments. Parental leave currently does not meet this criteria.

Staff are now recommending, with approval from labor groups, to allow employees to use their accrued sick leave when on parental leave. Employees can take up to 12 weeks of protected time for parental leave.

The City's labor agreements also state that employees, in compliance with California law may during a calendar year, use sick leave up to the amount earned in six (6) months to attend to the illness of a child, parent, spouse or domestic partner. Staff recommends increasing the limitations on the amount of sick leave an employee can use to attend to the illness of a child, parent, spouse or domestic partner when an employee is on an approved protected leave to up to 12 weeks. The limitation on using half of the employee's annual sick leave accrual during the calendar year would remain for absences that do not qualify for protected leave, such as single day absences.

DISCUSSION

Various federal and state laws provide eligible employees with the opportunity to take either paid or unpaid, job-protected leave for certain specified reasons. The City currently complies with all federal and state requirements. However, in reviewing the best practices of other cities it appears that many agencies are more generous than required by law and allow employees to use accrued sick leave when on parental leave.

Staff is now recommending that employees be able to use accrued sick leave in addition to all other accrued leave, while on parental leave. The more liberal benefit, which will allow employees to extend paid time off through the use of sick leave, reflects the City's desire to support its employees and to provide an environment that allows for the recruitment and retention of high quality staff.

A majority of the City's bargaining units participate in State Disability Insurance (SDI). As a result employees on parental leave will receive a portion of their salary through State Paid Family Leave (PFL). Paid Family Leave currently provides up to eight weeks of wage replacement.

Employees who are eligible for Paid Family Leave, (for parental leave) will now be allowed to supplement Paid Family Leave with sick leave. Currently employees can use vacation or other accrued leaves to supplement PFL. Employees not eligible for a wage replacement program will be allowed to use sick leave along with other accrued leaves when off on parental leave. Employees on parental leave will be allowed to use up to 10 weeks of sick leave but must use other accruals during weeks eleven and twelve of their leave.

Additionally, staff is recommending that the limit on the amount of sick leave an employee can use to care for a family member when on protected leave (FMLA related to a family illness) be increased from half the employees annual accruals (45 hours for a 36 hours a week employee) to up to 12 weeks based on the employee's workweek.

Currently the average sick leave balance for full-time employees is 171 hours. However, employees who have been with the City for a number of years have much higher sick leave balances. Typically, these employees have used only a limited amount of sick leave during their time with the City. Increasing the amount of sick leave an employee can use while on protected leave will recognize employees who have worked for the City for at least five years and used only limited sick leave during their time with the City.

Staff has met with the City's labor groups regarding this change and they are supportive of changes in how sick leave can be used. Staff will execute side letters with labor groups upon approval of the recommended change.

ALTERNATIVES

1. Allow employees to use up to 10 weeks of sick leave accruals during protected parental leave and to use up to 12 weeks of sick leave to care for a qualified family member during Family Medical Leave.
2. Allow the use of sick leave during parental leave but maintain the existing limitation that only allows employees to use half their annual accruals to care for an ill family member during the calendar year.
3. Not make any changes to the existing policy.

FINANCIAL IMPACT

There is no direct cost of this policy; however, there could be an indirect financial impacts as a result of this change in policy due to the higher balance of the employees' vacation accruals. Employees who may have used vacation accruals to cover time off will now be able to use sick leave instead of their vacation leave.

It is possible employees who leave employment could have a higher vacation balance, increasing the City's accrued liability for the vacation payout. However, while there may be some impact to employee's vacation accrual balances, employees who collect State Paid Family Leave are not currently required to use their vacation accruals during their time off. Employees often choose this option in order to maintain their vacation balances.

MUNICIPAL CODE/POLICY DOCUMENT CROSS REFERENCE

This action is in conformance with the Alameda Municipal Code and all policy documents.

CLIMATE IMPACTS

The recommendations in this item support the City's Climate Action and Resiliency Plan by increasing transparency and social resilience by providing employees greater opportunity to bond with a newborn child and/or care for a qualified family member.

RECOMMENDATION

Recommend expanding the City's sick leave benefit to include usage during Parental Leave and increasing the cap on the number of sick leave hours an employee can use while on protected leave to care for a Family member to 480 hours.

CITY MANAGER RECOMMENDATION

The City Manager concurs with the HR Director's recommendation consistent with City Council direction.

Respectfully submitted,
Nancy Bronstein, Human Resource Director

Financial Impact section reviewed,
Annie To, Finance Director

cc: Eric Levitt, City Manager